

## Office of the Secretary, HUD

## §41.4

the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5404 (this is not a toll-free number). Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-0113 or 1-800-877-8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

[61 FR 5204, Feb. 9, 1996]

### **PART 41—POLICIES AND PROCEDURES FOR THE ENFORCEMENT OF STANDARDS AND REQUIREMENTS FOR ACCESSIBILITY BY THE PHYSICALLY HANDICAPPED**

Sec.

41.1 Applicability.

41.2 Definitions.

41.3 Assurance and declaration required.

41.4 Waiver or modification of standards.

41.5 Achieving compliance.

41.6 Matters involving the Architectural and Transportation Barriers Compliance Board.

AUTHORITY: Architectural Barriers Act of 1968, as amended by Pub. L. 90-480, 42 U.S.C. 4151 *et seq.*

SOURCE: 44 FR 62806, Oct. 31, 1979, unless otherwise noted.

#### **§41.1 Applicability.**

This part sets forth policies and procedures for the enforcement of standards and requirements for accessibility by the physically handicapped imposed:

(a) For nonresidential buildings or facilities by regulations issued by the General Services Administration at subchapter D of the Federal Property Management Regulations, subpart 101-19.6—Accommodations for the Physically Handicapped, or

(b) By regulation or contract under any other program of the Department, except a program subject only to standards or requirements at 24 CFR part 8 imposed pursuant to section 504 of the Rehabilitation Act of 1973.

The policies and procedures of this part shall apply after the effective date of these regulations to all complaints received, and/or findings of noncompliance made, regarding buildings or fa-

cilities subject to such regulatory or contractual requirements.

#### **§41.2 Definitions.**

As used in this part, the term Secretary means the Secretary of Housing and Urban Development, or to the extent of any delegation of authority by the Secretary to act under this part, any other Department Official to whom authority has been delegated.

#### **§41.3 Assurance and declaration required.**

(a) Each Assistant Secretary shall, as a condition for approval of any contract or application for assistance under a program imposing standards and/or requirements for accessibility which are subject to this part, require an assurance of compliance with those standards and requirements. Such assurance shall be in a form acceptable to the Secretary.

(b) For each project covered under this part, except a project subject to Departmental examinations and inspections as set forth in §41.5(a), the responsible Assistant Secretary shall require a declaration as to project drawings, specifications, and other construction documents. The declaration shall be signed by the licensed, or registered, architect or engineer, or by such other responsible official as designated by HUD, who has prepared such construction documents. The declaration shall affirm that the proposed project, to the best knowledge and belief of the declarer, conforms to applicable accessibility design standards and requirements. The declaration statement shall be in a form acceptable to the Secretary.

#### **§41.4 Waiver or modification of standards.**

(a) The applicability of standards and requirements for accessibility by the physically handicapped may be waived or modified on a case-by-case basis upon a written request from a recipient of a Departmental grant or loan or from a Departmental agency leasing a building or facility.

(b) For residential buildings or facilities, a waiver or modification may be granted only by the Secretary.